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July 31, 2007

VIA FACSIMILE TO 914-390-4077

Hon. Charles L. BRIEANT
United States District Court
300 Quarropas Street
White Plains, NY 10601-4150

RECEIVED
APPROVED
Application Granted
8/1/07
Charles L. Briant
USDS

Re: John E. Andrus Memorial, Inc. v. Daines, S.D.N.Y. 3432 CV 2007 (CLB)(KNF)

Dear Judge Briant:

This office represents the defendant in the above captioned action. On May 25, 2007, the Court set a briefing schedule for defendant's motion for summary judgment. Pursuant to that schedule, defendant served his initial set of papers in support of summary judgment on July 13th. Plaintiff's opposition papers are due on August 3, 2007, defendant's reply papers are due on August 10, 2007 and oral argument is set for September 7, 2007.

I write to request an extension of the briefing schedule. The New York State Department of Health's in-house attorney responsible for the preparation of affidavits supporting defendant's motion, Hal Rosenthal, will be out of the office the week of August 5th and unable to assist me in preparing defendant's reply affidavits. I have conferred with plaintiff's counsel, Brian McGovern, and he will consent to extend defendant's time to reply to August 22, 2007 if plaintiff may serve opposition papers by August 13, 2007 and if the Court does not change the current return date, September 7, 2007. If the Court is inclined to grant defendant's request but must move the return date, Mr. McGovern has indicated that he would first like the opportunity to obtain his client's consent to the extension of the briefing schedule.

Accordingly, I respectfully request that the Court permit plaintiff to serve its opposition to defendant's motion on August 13, 2007, defendant to serve his reply on August 22, 2007 and retain the current return date of September 7, 2007.

Hon. Charles L. Brieant

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Very truly yours,



John P. Gasior

cc: Brian T. McGovern, Esq. via fax to 212-504-6666